

SENATE BILL REPORT

SB 5967

As Reported By Senate Committee On:
Ways & Means, March 5, 2007

Title: An act relating to the sales of vehicles and associated services to nonresidents of Washington.

Brief Description: Concerning the sales of vehicles and associated services to nonresidents of Washington.

Sponsors: Senators Pridemore, Zarelli, Berkey, Schoesler, Eide, Marr, Parlette, Sheldon, Tom, Hobbs, Carrell, Hatfield, Honeyford, Roach, Shin and Benton.

Brief History:

Committee Activity: Ways & Means: 2/20/07, 3/05/07 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5967 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Parlette, Rasmussen, Rockefeller, Schoesler and Tom.

Staff: Dianne Criswell (786-7433)

Background: The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail in this state. The tax is paid by the purchaser and collected by the seller. In addition to the combined state and local retail sales taxes, retail sales of motor vehicles are also subject to an additional 0.3 percent sales tax. Proceeds from the additional tax is used to finance improvements to the state transportation system.

Sales Tax Exemptions for Motor Vehicles: Nonresidents purchasing motor vehicles, trailers, or campers can be exempt from retail sales taxes, even though delivery is made within this state. This exemption applies only if the motor vehicle, trailer, or camper will be transported directly out of the state under a one-transit permit obtained from the Department of Licensing, and will be licensed immediately in the state where the purchaser resides.

Sales Tax Exemptions for Tangible Personal Property: Persons who reside in a state, possession, or Canadian province which levies a sales tax of less than 3 percent are exempt

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from Washington retail sales tax on tangible personal property purchased for use outside of Washington.

Summary of Bill: Sellers of motor vehicles, trailers, or campers are not required to collect retail sales tax from nonresidents. Sellers cannot be found liable for the retail sales tax, if the seller retains copies of the following: (1) a currently valid out-of-state driver's licence; (2) a copy of a rental agreement, a property tax statement from the previous year, a utility bill that is dated within the last two months, a state income tax return from the previous year, a voter registration card, a current credit report, or any other document determined by the Director of the Department of Revenue to be acceptable; and (3) a notarized affidavit. Sellers who fail to retain these documents are personally liable for the amount of tax due.

Sellers having actual knowledge that the buyer's documentation is fraudulent are guilty of a misdemeanor and are liable for the tax and a penalty equal to the greater of \$1,000 or the tax due. The buyer and the seller are liable for additional penalties and interest.

If the Department of Revenue has information that the buyer is a Washington resident, the Department may contact the buyer to verify their eligibility for the exemption. Persons making fraudulent statements are guilty of perjury. Persons making tax exempt purchases by displaying someone else's identification or counterfeit identification are liable for the tax and a penalty equal to the greater of \$100 or the tax due.

The motor vehicle, trailer, or camper will be taken from Washington directly to a point outside this state under the authority of a vehicle trip permit, rather than a one-transit permit. Such a permit can be obtained either from the Department of Licensing or any agency of another state that has authority to issue similar permits.

The sales tax exemption for certain nonresidents purchasing items of tangible personal property is expanded to expressly include: motor vehicle, trailer, or camper replacement parts; installation of such replacement parts; and separately stated installation, that might not otherwise qualify for the exemption, as long as the cost of installation does not exceed the cost of the parts. The phrase "replacement parts" does not include paint, fuel, oil, grease, hydraulic fluids, antifreeze, and similar parts.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Ways & Means): That the retail sales tax exemption for motor vehicle parts sold to nonresidents, created in the original bill, does not apply to labor is clarified, and makes other changes to clarify the documentation that the seller is required to retain for tax exempt retail sales of motor vehicles to nonresidents.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There is no guidance in current law for auto dealers to know the documents that they must retain to verify the nonresident sales tax exemption. Car dealers should not have to disprove fraud. This bill levels the playing field,

clarifying the necessary documentation and making sure car dealers are not held to a different standard than other businesses. This bill will also preserve the status quo on the nonresident sales tax exemption for replacement parts. The fiscal note mentions noncompliance; however, clear rules should help compliance.

OTHER: The Department of Revenue and the auto dealers have been working to address the Department's concerns. There is optimism that the parties will reach agreement on a draft.

Persons Testifying: PRO: Senator Pridemore, prime sponsor; Scott Hazelgrove, Washington State Auto Dealers Association.

OTHER: Gil Brewer, Department of Revenue.